

### **REMARKS**

Favorable reconsideration and allowance of this application are requested.

#### **1. Request for Continued Examination**

As an initial procedural note, the present amendment is being filed concurrently with a formal Request for Continued Examination (RCE) under 37 CFR §1.114. Accordingly withdrawal of the "finality" of the October 26, 2009 Official Action is in order so as to allow entry and consideration of the amendments and remarks presented herewith.

#### **2. Summary of Amendments**

By way of the amendment instructions above, pending independent claim 13 has been revised so as to recite therein the specific refractive indices of the Elastomer (B) and the plasticizer (D), namely "1.52 to 1.59" and 1.45 to 1.60", respectively. Claims 14 and 15 have thus been canceled as redundant.

Claim 13 has also been revised so as to specify that the amount of the copolymerizable monomer in the PBT-series copolymer is between "0.01 to 30% by mol". Support for such a revision can be found in paragraph [0021] of the originally filed specification, especially at lines 16-17 of page 12.

The dependency of claim 19 has been revised so it is now dependent on claim 13 as amended.

Accordingly, following entry of this amendment, claims 13 and 16-19 will remain pending herein for consideration. Favorable reconsideration and allowance of all pending claims is solicited.

### **3. Response to 35 USC § 112 Rejection**

The amendment to claim 19 is believed to fully address the rejection thereof advanced under 35 USC §112, second paragraph. As the Examiner suspected, prior claim 19 was in fact intended to be dependent from claim 13.

### **4. Response to 35 USC §103(a) Rejections**

Prior claims 13 and 15-19 attracted a rejection under 35 USC §103(a) as allegedly “obvious”, and hence unpatentable, over US 2002/0183073 (Uno et al.) and US 2003/0100381 (Joachimi et al.). Claim 14 has been rejected separately under the same statutory provision and the same publications, and further in view of US 2002/0190408 (Houston et al.) Applicants respectfully suggest that the applied publications of record are inappropriate against the presently pending claims herein.

At the outset, applicants note that Uno et al, Joachimi et al and Houston et al are the same publications applied in the prior Official Action dated March 13, 2009. Accordingly, in order to prevent overburdening of the Official Record, applicants hereby incorporate by reference herein the comments made in the Amendment dated June 15, 2009.

Applicants emphasize at this juncture, however, that the applied references fail to disclose a laser welding process using a combination of the specific modified polybutylene terephthalate-series copolymer (modified PBT-series copolymer), the specific elastomer having the specific refractive index, the polycarbonate-series resin and the specific plasticizer having the specific refractive index in the specific proportions as claimed herein.

The Examiner accepts that Uno et al. is silent on laser welding procedures. Accordingly, an ordinarily skilled person could not possibly be motivated toward laser welding processes generally by Uno et al. More specifically, since Uno et al. fails to

disclose laser welding processes, an ordinarily skilled person would not be motivated to combine Uno et al. with Joachimi et al. in developing a specific laser welding process. Further, even assuming that Uno et al. and Joachimi et al might possibly be combined, a laser welding process using the specific combination could not have been predicted therefrom.

Applicants further note that the refractive indices of the elastomer (B) and the plasticizer (D) are not taught or suggested by the cited references. In particular, applicants note that Joachimi et al does not disclose or suggest at all the lower limits of the copolymerizable monomer in the polybutylene terephthalate-series copolymer and/or the modified PBT-series copolymer as is now specified by the amended version of claim 13 pending herein for consideration. To be sure, none of the applied publications teach or suggest that the specific combination of specific components would (or could) have any technical significance in terms of laser welding. Accordingly, even if Uno et al. was combined with Joachimi et al., the laser welding process using the herein claimed combination would not be predictable.

As evidence of such unpredictability, there is attached hereto a Declaration of Koichi Sakata under 37 CFR §1.132. As noted in the Sakata Declaration, having all components the same *except* for the specific type of PBT-series resin does not inevitably lead to laser weldable compositions having satisfactory light transmittance and/or airtightness. Thus, as the Sakata Declaration establishes, using an unmodified PBT-series resin (e.g., as is contemplated by Joachimi et al) does not yield a composition having adequate light transmittance and airtightness as compared to compositions according to the presently claimed invention wherein the modified PBT-series resin is employed in combination with the other components specified. Thus, the evidence provided by the Sakata Declaration establishes that there is neither predictability nor equivalency even between components that are closely related to one another chemically.

Applicants note that Houston et al is being applied simply for the teaching of an iso-refractive system such that light scattering between phases is reduced. Even though Houston et al may in fact generally disclose such a desired result, there is no teaching or suggestion therein that would cure the technical deficiencies of Uno et al and Joachimi et al as discussed above. Hence even if Houston et al were to be combined with Uno et al and Joachimi et al, the presently claimed invention would not be the result.

Finally, applicants note that some argument with respect to the applied publications individually must be advanced in order to demonstrate that the *combination* of such publications is inappropriate under 35 USC §103(a). Thus, applicants have not in fact argued the applied publications individually to the exclusion of their inappropriateness to be combined in the manner alleged by the Examiner. Indeed, as noted above, the teachings of the applied references would not in the first instance lead to their combination as asserted by the Examiner and even assuming their combination, the presently claimed invention would not result. Hence, the Examiner's reliance upon *In re Keller* is misplaced.

Similarly, the Examiner's reliance upon *In re Mayne* is misplaced in view of the evidence provided by the accompanying Sakata Declaration.

Withdrawal of the rejections advanced under 35 USC §103(a) is therefore in order.

## **5. Response to Double Patenting Rejection**

A Terminal Disclaimer is now being filed herewith which addresses the non-statutory obviousness-type double patenting rejection based on claims 1-14 of USP 7,396,428 ("the '428 patent") for the reasons already noted in Section 3 of the Amendment dated June 15, 2009. For reasons unknown to the undersigned, the Terminal Disclaimer referenced in such prior Amendment was not in fact filed with the

**SAKATA et al**  
**Serial No. 10/574,574**  
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same. Thus, the Terminal disclaimer enclosed herewith should now resolve the asserted issue of "double patenting".

## **6. Conclusion**

All issues raised in the Official Action dated February 20, 2009 appear to have been addressed by way of the present amendment. Therefore, early receipt of the Official Allowance Notice is awaited.

## **7. Fee Authorization**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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